## UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS

In re:	§	
	§	Case No: 6:23-cv-00002
ARTHUR JACOB BRASS,	§	Bankruptcy Case No: 21-60025
	§	
Debtor.	§	
	§	
	§	
VITOL INC.	§	
	§	
<b>v.</b>	§	Adversary No. 21-06006
	§	
ARTHUR JACOB BRASS	§	

# APPELLEE AND CROSS-APPELLANT VITOL INC.'S STATEMENT OF ISSUES & DESIGNATION OF THE RECORD ON APPEAL PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 8009

Cross-Appellant Vitol Inc. ("<u>Vitol</u>") by and through its undersigned counsel, hereby files this *Statement of Issues and Designation of Record on Appeal Pursuant to Federal Rule of Bankruptcy Procedure* 8009.

#### **Cross-Appellant's Statement of Issues Presented on Appeal**

1. Whether the Bankruptcy Court erred in determining the amount of the debt owed by the Debtor to Vitol that is not dischargeable under 11 U.S.C. § 523(a)(2)(A) and binding precedent under *Husky Intern. Electronics, Inc. v. Ritz*, U.S. 578 U.S. 355 (2016) and its progeny.

### **Designation of Record on Appeal**

2. Vitol as cross-appellant and appellee designates the following items for inclusion in the record on appeal. Unless otherwise noted, each designated item shall also include any and all exhibits to such item.

Filing Date	Docket No.	Description
07/09/2021	1	Complaint
07/12/2021	5	Summons Issued On Arthur Jacob Brass
08/02/2021	6	Motion to Dismiss Adversary Proceeding

Filing Date	Docket No.	Description	
08/23/2021	7	Response and Motion for Leave to Amend Complaint	
09/29/2021	8	Order Denying Motion to Dismiss Adversary Proceeding	
10/6/2021	10	First Amended Complaint	
10/13/2021	11	Answer to Complaint	
12/8/2021	17	Scheduling Order	
12/7/2021	27	Answer to Amended Complaint	
4/8/2022	58	Motion for Summary Judgment by Arthur Jacob Brass	
4/26/2022	64	Motion to Strike	
5/9/2022	65	Response in Opposition to Debtor's Motion for Summary Judgment	
5/9/2022	66	Motion to File Under Seal to Its Response in Opposition to Debtor's Motion for Summary Judgment	
5/9/2022	67	Sealed Document Motion to File Under Seal Exhibits to its Response in Opposition to Debtor's Motion for Summary Judgment	
5/9/2022	68	Sealed Document Exhibits 11-25 to Motion to File Under Seal Exhibits to its Response in Opposition to Debtors Motion for Summary Judgment	
5/17/2022	70	Response in Opposition to Motion to Strike	
6/24/2022	79	Order Granting in part and Denying in part Motion for Summary Judgment	
7/27/2022	86	Order Regarding Attendance of Trial Witness	
8/9/2022	92	Notice of Objection	
8/15/2022	95	Debtor's Response in Opposition to Vitol's Request for a Hearing	
8/17/2022	97	Transcript for Hearing held on 07/08/2022.	
8/22/2022	100	Order Denying Motion to Strike	
8/22/2022	102	Notice of Vitol's Designation of Deposition Testimony	
8/22/2022	103	Vitol Inc.'s Proposed Findings of Fact and Conclusions of Law	
8/22/2022	104	Arthur J. Brass's Witness List, Exhibit List	
8/22/2022	105	Arthur J. Brass's Proposed Findings of Fact and Conclusions of Law	
8/22/2022	106	Joint Pre-Trial Statement	
8/22/2022	107	Additional Attachments regarding Corrected Defendant's Trial Exhibit #43.	

Filing Date	Docket No.	Description
8/26/2022	109	Emergency Motion to Quash Subpoena for Trial
8/26/2022	110	Vitol Inc.'s Response to DZ Jewelry, LLC's <i>d/b/a</i> Zadok Jewelers Motion to Quash
8/26/2022	112	Defendant's Response to DZ Jewelry, LLC's Motion to Quash
8/26/2022	116	Plaintiff Vitol Inc.'s Trial Brief on the Admissibility of Business Records Under Fed. R. Evid. 803(6) and 902(11).
8/26/2022	118	Order Granting Non-Party DZ Jewelry LLC's Emergency Motion to Quash Subpoena for Trial
8/29/2022	120	Transcript regarding hearing held on 08/26/2022
8/29/2022	121	Vitol's Objection to Arthur Brass' Trial Exhibits
8/30/2022	124	Plaintiff Vitol Inc.'s Trial Brief on Its Production of Third- Party Business Records to Defendant and their Admissibility
8/30/2022	125	Plaintiff Vitol Inc.'s Trial Brief on Designation of Expert Witness
9/5/2022	136	Plaintiff Vitol Inc.'s Amended Witness and Exhibit List
9/5/2022	138	Plaintiff Vitol Inc.'s Trial Brief on Disclosure of Chapter 7 Trustee as a Fact Witness Regarding Schedules
9/6/2022	139	Defendant's Response to Vitol's Brief
9/8/2022	143	Arthur J. Brass Testimony Order
9/14/2022	145	Transcript regarding trial held on 9/7/2022
9/15/2022	147	Transcript regarding trial held on 8/30/2022
9/15/2022	148	Transcript regarding trial held on 9/1/2022
9/16/2022	152	Transcript regarding trial held on 9/2/2022
9/22/2022	161	Transcript regarding trial held on 9/16/2022
9/26/2022	165	Transcript regarding trial held on 9/22/2022
9/26/2022	166	Plaintiff Vitol Inc.'s Trial Brief in Support of Judicial Notice
9/28/2022	168	Plaintiff Vitol Inc.'s Trial Brief on the Legal Standard Applicable Under 11 U.S.C. § 523(A)(4)
9/29/2022	172	Vitol Inc.'s Notice of Admitted Exhibits
10/3/2022	176	Notice of Admitted Exhibits (Vitol-80 Part 1)
10/3/2022	177	Notice of Admitted Exhibits (Vitol-80 Part 2)
10/3/2022	178	Notice of Admitted Exhibits (Vitol-81-174)
10/3/2022	179	Notice of Admitted Exhibits (Vitol-81-175)
10/3/2022	180	Notice of Admitted Exhibits (Vitol 81-181)

Filing Date	Docket No.	Description
10/3/2022	181	Notice of Admitted Exhibits (Vitol 81-190)
10/3/2022	182	Notice of Admitted Exhibits (Vitol-83)
10/3/2022	183	Notice of Admitted Exhibits (Vitol-86)
10/3/2022	184	Notice of Admitted Exhibits (Vitol-89)
10/3/2022	185	Notice of Admitted Exhibits (Vitol-93)
10/3/2022	186	Notice of Admitted Exhibits (Vitol-100)
10/3/2022	187	Notice of Admitted Exhibits (Vitol-124 Part 1)
10/3/2022	188	Notice of Admitted Exhibits (Vitol-124 Part 2)
10/3/2022	189	Notice of Admitted Exhibits (Vitol-124 Part 3)
10/3/2022	190	Notice of Admitted Exhibits (Vitol-124 Part 4)
10/3/2022	191	Notice of Admitted Exhibits (Vitol-124 Part 5)
10/3/2022	192	Notice of Admitted Exhibits (Vitol-124 Part 6)
10/3/2022	193	Notice of Admitted Exhibits (Vitol-124 Part 7)
10/3/2022	194	Notice of Admitted Exhibits (Vitol-124 Part 8)
10/3/2022	195	Notice of Admitted Exhibits (Vitol-124 Part 9)
10/3/2022	196	Notice of Admitted Exhibits (Vitol-124 Part 10)
10/3/2022	197	Notice of Admitted Exhibits (Vitol-124 Part 11)
10/3/2022	198	Notice of Admitted Exhibits (Vitol-124 Part 12)
10/3/2022	199	Notice of Admitted Exhibits (Vitol-124 Part 13)
10/6/2022	200	Transcript regarding trial held on 9/28/2022
11/1/2022	205	Transcript regarding trial held on 10/13/2022
12/21/2022	208	Judgment and Order

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Dated: February 1, 2023 Respectfully Submitted,

By: /s/ Omar J. Alaniz

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#### **CERTIFICATE OF SERVICE**

I hereby certify that on February 1, 2023, a true and correct copy of the forgoing document was served via the Court's Electronic Case Filing (ECF) system to all parties registered to receive electronic notices in this appeal, including counsel for Arthur J. Brass.

/s/ Omar. J. Alaniz

Omar J. Alaniz